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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/782,211	02/19/2004	Karlheinz Hausmann	CL2018 US NA	5364

23906 7590 02/23/2006

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EXAMINER
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NAKARANI, DHIRAJLAL S

ART UNIT	PAPER NUMBER
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1773

DATE MAILED: 02/23/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/782,211

Applicant(s)

HAUSMANN ET AL.

Examiner

D. S. Nakarani

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 14 December 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7, 9 and 10 is/are rejected.
- 7) ☒ Claim(s) 8 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### DETAILED ACTION

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

2. Claims 6, 7, 9 and 10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 6, line 4, the phrase "carboxylic acid," should read -- carboxylic acid; -- for clarity.

Line 6, the word "including" should be changed to -- selected from -- since there is no other softening monomers disclosed. The term "including" reads on a mixture unspecified monomer and recited monomers.

Lines 7-8, the phrase "and mixtures of two or more of said polymers or copolymers;" should read -- or mixtures of two or more of said copolymers; wherein -- since the term polymers lacks clear antecedent basis.

Claim 7, line 2, the phrase "about 10-70 of the carboxylic acid groups" renders claim indefinite. It is not clear from the claim language whether applicants are trying to claim only about 10-70 of the carboxylic acid groups are neutralized or applicants are trying to claim about 10-70 % of the carboxylic acid groups are neutralized. Clarification and/or correction requested.

In claims 9 and 10, recited weight percent amount of ethylene diamine phosphate cannot be understood in absence of providing base for calculation. It is not clear from

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the claim language whether recited weight percent amount of ethylene diamine phosphate is based on the total weight of article (i.e. weight of recited first and second layers) or on the combined weight of acrylate polymer and ethylene diamine phosphate. Clarification and/or correction requested.

3. Claims 1-7, 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Narum et al (U. S. Patent 6,866,928 B2) for the reasons of record set forth in paragraph 5 of the Office Action mailed November 15, 2005 (Paper Number 20051112).

4. Claim 8 stand objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

5. Applicant's arguments filed December 14, 2005 have been fully considered but they are not persuasive. In reference to rejection of claims 1-7, 9 and 10 under 35 U.S.C. 103(a) as being unpatentable over Narum et al (U. S. Patent 6,866,928 B2), applicants argue that according to MPEP 2141.01, an obviousness rejection based on a publication which would be applied under 35 USC 102(a) if it anticipated the claims can be overcome by swearing behind the publication date of the reference. Narum et al has issue date of March 15, 2005, which is more than two years after applicants filed their US Provisional Application on February 24, 2003.

These arguments are unpersuasive because Narum et al (U. S. Patent 6,866,928 B2) is available under 35 USC 102(e) and has effective filing date of April 8, 2002. The rejection may be overcome by swearing behind the filing date April 8, 2002 of the reference (See MPEP 2136.05).

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

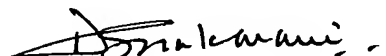
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1:136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to D. S. NAKARANI whose telephone number is (571) 272-1512. The examiner can normally be reached on Tuesday-Friday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carol Chaney can be reached on (571) 272-1284. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



**D. S. Nakarani**  
**Primary Examiner**  
**Art Unit 1773**

Dsn  
February 17, 2006.